

Decision **DRAFT DECISION OF ALJ BARNETT** (Mailed 5/17/2005)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company  
in the 2001 Annual Transition Cost Proceeding  
for the Record Period July 1, 2000, through  
June 30, 2001.

(U 39 E)

Application 01-09-003  
(Filed September 4, 2001)

**OPINION GRANTING THE MOTION  
OF PACIFIC GAS AND ELECTRIC COMPANY TO DISMISS  
THE PROCUREMENT PHASE OF APPLICATION 01-09-003**

Decision (D.) 03-12-035, issued December 19, 2003, adopted a Modified Settlement Agreement (MSA) resolving issues and litigation associated with Pacific Gas and Electric Company's (PG&E's) bankruptcy and other events of the energy crisis. The MSA was executed by the Commission, PG&E, and PG&E Corporation on December 19, 2003, and incorporated into the confirmation order for PG&E's plan of reorganization approved by the United States Bankruptcy Court on December 22, 2003. On April 12, 2004, PG&E's emergence from bankruptcy occurred.<sup>1</sup>

Paragraph 9 of the MSA provides:

9. **Dismissal of the Rate Recovery and Other Litigation.** On or as soon as practicable after the later of the Effective Date or the date on which the Commission approval of this Agreement is no

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<sup>1</sup> See Case No. 01-30923 DM, U.S. Bankruptcy Court, Northern District of California, San Francisco Division.

longer subject to appeal, PG&E shall dismiss with prejudice the Rate Recovery Litigation, foregoing any recovery from ratepayers of costs sought in such litigation not otherwise provided for in this Agreement and the Settlement Plan; withdraw the PG&E Plan; dismiss other pending proceedings, as specified herein; and provide the other consideration described herein. In exchange, on or before January 1, 2004, the Commission shall establish and authorize the collection of the Regulatory Asset and the URG Rate Base, and on or as soon as practicable after the Effective Date, the Commission shall resolve Phase 2 of the presently pending ATPC Application with no adverse impact on PG&E's cost recovery as filed, and provide the other consideration described herein. PG&E's motion to dismiss the Rate Recovery Litigation shall be in form and substance satisfactory to the Commission.

The "ATCP Application" referred to in paragraph 9 of the MSA is this Annual Transition Cost Proceeding, Application (A.) 01-09-003. In compliance with paragraph 9 of the MSA and D.03-12-035, PG&E moves the Commission to issue an order terminating this docket as moot, thus resolving A.01-09-003 with no adverse impact on PG&E's cost recovery as filed.<sup>2</sup>

### **Comments on Draft Decision**

The draft decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. No comments were filed.

### **Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Robert Barnett is the assigned ALJ in this proceeding.

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<sup>2</sup> The closure of this docket was delayed pending the appeal of the confirmation order, which as it affects this ATPC proceeding, has been resolved.

**Finding of Fact**

The effective date of PG&E's Plan of Reorganization occurred on April 12, 2004; and pursuant to the MSA, A.01-09-003 should be dismissed.

**Conclusion of Law**

PG&E's motion to dismiss A.01-09-003 should be granted with no adverse impact on PG&E's cost recovery as filed.

**O R D E R**

**IT IS ORDERED** that:

1. Application 01-09-003 is dismissed with no adverse impact on Pacific Gas and Electric Company's cost recovery as filed.
2. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.